

EXHIBIT 4

Dingess Am. Compl. Demonstrating
TPLA Claims Are Separate from
Negligence and Failure to Warn Claims

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

WANDA J. DINGESS,

Plaintiff,

v.

**AMERIDOSE, LLC, MEDICAL SALES
MANAGEMENT, INC., MEDICAL SALES
MANAGEMENT SW, INC., GDC
PROPERTIES MANAGEMENT, LLC,
ARL BIO PHARMA, INC. d/b/a
ANALYTICAL RESEARCH LABORATORIES,
BARRY J. CADDEN, GREGORY CONIGLIARO,
LISA CONIGLIARO CADDEN, DOUGLAS
CONIGLIARO, CARLA CONIGLIARO,
GLENN A. CHIN, SPECIALTY SURGERY
CENTER, LLC and UNIFIRST
CORPORATION A/D/B/A UNICLEAN
CLEANROOM SERVICES**

Defendants.

CIVIL ACTION NO. 1:13-cv-12490-FDS

MDL No.2419

Master Docket No.1:13-md-2419-FDS

Honorable F. Dennis Saylor

DEMAND FOR JURY TRIAL

2013 DEC 20 P 4:15

**SHORT FORM COMPLAINT
AGAINST UNAFFILIATED DEFENDANTS**

Plaintiff, Wanda J. Dingess, for her cause of action against the Defendants, alleges as follows:

FIRST COUNT

1. Pursuant to MDL Order No.7, entered in In Re: New England Compounding Pharmacy, Inc. Products liability Litigation, Master Docket No. 1:13-md-2419-FDS, the undersigned counsel hereby submit this Short Form Complaint and Jury Demand against Defendants, and adopt and incorporate by reference the allegations in Plaintiffs' Master Complaint, with attachments, and any and all amendments thereto.

2. Plaintiff Wanda J. Dingess is a citizen and resident of Tennessee and resides at 6675 Chestnut Hill Road, Crossville, Tennessee, 38571, in Cumberland County.

3. Plaintiff Wanda J. Dingess brings this action:

☒ On behalf of herself.

- ☐ As the representative of _____, who is a living person.
- ☐ As the Administrator, Administrator ad Prosequendum, or other representative of the Estate of not applicable (hereinafter "Decedent"), who died on not applicable.

4. Additionally, not applicable, is the:

- ☐ Spouse
- ☐ Child/Children
- ☐ Other (Set forth) _____

5. Plaintiff Wanda J. Dingess asserts that she was administered New England Compounding Pharmacy, Inc. ("NECC") drug methylprednisolone acetate (hereinafter referred to as "NECC drug"), causing injuries and damages.

6. The aforesaid administration of the NECC drug occurred on August 28, 2012, at Specialty Surgery Center, PLLC ("Specialty Surgery Center"), located in Crossville, Tennessee.

7. Specialty Surgery Center is hereinafter referred to as "Clinic Related Defendant."

8. Plaintiff adopts and incorporates by reference the following Causes of Action asserted against Defendants in the Master Complaint:

- ☒ COUNT II: NEGLIGENCE AND GROSS NEGLIGENCE (Against UniFirst)
- ☒ COUNT III: NEGLIGENCE AND GROSS NEGLIGENCE (Against Clinic Related Defendant)
- ☒ COUNT IV: VIOLATION OF CONSUMER PROTECTION STATUTES (Against Clinic Related Defendant)

Plaintiff alleges violation of the following consumer protection statutes: T.C.A. § 29-28-102(2)&(7); T.C.A. § 29-28-106(4)&(5); T.C.A. §§ 47-2-313, 47-2-314, and 47-2-315; Note that N.J.S.A. 56:8-1 *et seq.* was inadvertently omitted from the Master Complaint]

- ☐ COUNT VI: VIOLATION OF M.G.L.C. 93A (Against UniFirst)
- ☐ COUNT VII: BATTERY (Against Clinic Related Defendant)
- ☒ COUNT VIII: FAILURE TO WARN (Against Clinic Related Defendant)
- ☒ COUNT IX: TENNESSEE PRODUCT LIABILITY CLAIMS (Against Clinic Related Defendant)

- ☒ COUNT X: AGENCY (Against Clinic Related Defendant)
- ☒ COUNT XI: CIVIL CONSPIRACY (Against Clinic Related Defendant)
- ☐ COUNT XII: WRONGFUL DEATH PUNITIVE DAMAGES (Against UniFirst and Clinic Related Defendant)
- ☒ COUNT XIV: PUNITIVE DAMAGES (Against UniFirst and Clinic Related Defendant)

9. Plaintiff has sent or served the pre-suit notice or demand requirements necessary to bring the claims set forth below, as required under M.G.L.C. 93A. Plaintiff does not now assert but will seek leave to amend to assert the following claims promptly after the time period for giving notice has expired: VIOLATION OF M.G.L.C. 93A (as set forth in Count VI of the Master Complaint).

10. Plaintiff avers that as a direct and proximate result of these negligent acts and omissions and reckless misconduct committed by the Defendants, the Plaintiff Wanda J. Dingess became very ill and she suffered horribly with increased neck pain, headaches, nausea, dizziness, mental confusion and flu-like illness, signs and symptoms consistent with her having contracted fungal meningitis. Plaintiff Wanda J. Dingess has further suffered anxiety, worry, fear, insomnia and nightmares over the state of her health after discovering that she was injected with contaminated drugs which could cause complications leading to death.

11. Plaintiffs suffered the following damages as a result of the administration of NECC's drug(s): severe personal injuries; pain and suffering, past and future; mental anguish, past and future; loss of the enjoyment of life, past and future; physician, hospital and other medical expenses, past and future; and lost wages.

12. Plaintiff reserves the right to amend this Complaint to add allegations and claims against individuals or entities currently omitted (in light of the Court's order permitting a Master Complaint naming defendants affiliated with NECC and currently participating in mediation by December 20, 2013) and to add or amend allegations against Defendants named herein based, in part, on further discovery.

WHEREFORE, Plaintiff demands Judgment against Defendants awarding compensatory damages, punitive damages, attorneys' fees, interest, costs of suit, and such further relief as the Court deems equitable and just. Plaintiff prays for damages in an amount exceeding \$75,000.00 as set forth in Plaintiff's Original Complaint.

SECOND COUNT

13. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as if set forth at length herein.

14. Plaintiff asserts the following additional Causes of Action against Defendants:
Plaintiff incorporates all allegations and counts contained in Plaintiff's Original Complaint found at Docket No.1, together with all attachments thereto, [see docket nos. 1-1 through 1-5] in the litigation styled Wanda Dingess v. Ameridose LLC, et al.; United States District Court, District of Massachusetts, 1:13-cv-12490, (MDL No. 1:13-md-2419-FDS) together with all prayers for relief stated therein.

15. Plaintiff suffered injuries as set forth in Paragraph 10 herein.

16. Plaintiff suffered damages as set forth in Paragraph 11 herein.

WHEREFORE, Plaintiffs demand Judgment against Defendants awarding compensatory damages, punitive damages, attorneys' fees, interest, costs of suit, and such further relief as the Court deems equitable and just.

JURY DEMAND

Plaintiff hereby demands a trial by jury.

Respectfully submitted,

MCMAHAN LAW FIRM

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Attorneys for the Plaintiff

Date: **December 19, 2013**